

SCD

U.S. DISTRICT COURT  
EASTERN DISTRICT - WI  
FILED

Mitchell Sherman, plaintiff; v  
Conagra foods Inc, defendant  
2:21-cv-1038-scd

2022 APR 19 P 3:00

Pain statement or affidavit of Mitchell Sherman.

On or about October 24th of 2019 Mr Sherman was hired. At hiring Sherman was promised insurance coverages at the interview process. The coverage was never applied. Mr Sherman's insurance changed several times during the course of his employment without Sherman's knowledge or consent. Sherman contacted human resources and several other agencies and agents. After doing everything asked of Mr Sherman to correct the situation, conagra refused to correct it.

On or about 1/14/2020 Mr. Sherman made a verbal complaint against their manager paula with their supervisor Jason Pekul, reporting discrimination and harassment and such over the course of Shermans employment. after sherman refused to sign documentation Paula became very hostile and coercive and then reprimanded sherman publicly with witnesses present. Union representatives we're made aware of action taken by Sherman.

On or about 4/17/2020 Mr. Sherman made a complaint against their supervisor paula, reporting continued discrimination and harassment and such with the human resources department at conagra after refusal to sign documentation. Sherman was then no longer offered work in further retaliation. Union representatives we're again informed. Sherman made several attempts at gaining additional work with conagra, however The results of which was Sherman was not offered additional work.

On or about 08/14/2020 Sherman was terminated from employment with conagra.

On or about 02/17/2021 Mr. Sherman made an EEOC complaint against conagra brands, reporting discrimination, retaliation and such. (See attached supporting documentation)

On or about 06/08/2021 Mr. Sherman received notice of right to sue from EEOC. Conagra Foods, Inc.

clo Laura Malugade was a respondent in this action. (See attached supporting documentation)

It is Sherman's belief that they have exhausted and satisfied any administrative remedies.

A copy of this and supporting documentation was sent to the defendant's attorney via United states postal service.

Date: 4/18/2022 Signed:



**CHARGE OF DISCRIMINATION**

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To: Agency(ies) Charge No(s):

FEPA  
 EEOC

**443-2021-00583**

**WISCONSIN EQUAL RIGHTS DIVISION**

and EEOC

*State or local Agency, if any*

Name (Indicate Mr., Ms., Mrs.)

**MR. MITCHELL J SHERMAN**

Home Phone

**(262) 203-0247**

Year of Birth

Street Address

City, State and ZIP Code

**W6508 BARKERS RD, ELKHORN, WI 53121**

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

**CONAGRA FOODS INC**

No. Employees, Members

Phone No.

**501+**

**(262) 724-3266**

Street Address

City, State and ZIP Code

**1 CONAGRA DRIVE, OMAHA, NE 68102**

Name

No. Employees, Members

Phone No.

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

RACE     COLOR     SEX     RELIGION     NATIONAL ORIGIN  
 RETALIATION     AGE     DISABILITY     GENETIC INFORMATION  
 OTHER (Specify)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

**04-01-2020    08-14-2020**

CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)).

**In October 2019, I began my employment with Respondent in the position of Process Control Technician. During my employment, I was denied training and subjected to verbal harassment. In April 2020, I registered a complaint of harassment based on my disability with Respondent's Human Resources Department but it took no action on my complaint. During my employment, Respondent failed to provide me with a reasonable accommodation for my lifting restriction and required me to lift more than 15 pounds on numerous occasions. On August 14, 2020, I was discharged from my employment.**

**I believe Respondent discriminated against me on the basis of my sex (male non-heterosexual), disability and retaliated against me for opposing discriminatory treatment, in violation of Title VII of the Civil Rights Act of 1964, as amended and the Americans with Disabilities Act of 1990, as amended.**

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

NOTARY - When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.  
SIGNATURE OF COMPLAINANT

**Digitally signed by Mitchell Sherman on 02-17-2021  
11:20 AM EST**

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE  
(month, day, year)

**PRIVACY ACT STATEMENT:** Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

- 1. FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
- 2. AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
- 3. PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
- 4. ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
- 5. WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

#### **NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW**

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

#### **NOTICE OF NON-RETALIATION REQUIREMENTS**

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an

investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

## U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

**DISMISSAL AND NOTICE OF RIGHTS**

To: **Mitchell J. Sherman**  
**W6508 Barkers Rd**  
**Elkhorn, WI 53121**

From: **Milwaukee Area Office**  
**310 West Wisconsin Ave**  
**Suite 500**  
**Milwaukee, WI 53203**



*On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(a))*

EEOC Charge No.

**443-2021-00583**

EEOC Representative

**Drake C. Van Thiel,  
Investigator**

Telephone No.

**(414) 662-3691****THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
- The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge
- The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.
- The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- Other (*briefly state*)

**- NOTICE OF SUIT RIGHTS -**

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age**

**Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible**.

On behalf of the Commission

*Julianne Bowman /th*

6/8/2021

Enclosures(s)

**Julianne Bowman,  
District Director**

(Date Issued)

cc:

**Conagra Foods, Inc.**  
**c/o Laura Malugade**  
**Husch Blackwell**  
**511 N. Broadway, Suite 1100**  
**Milwaukee, WI 53202**